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Attorneys for Plaintiff  
HUEY-CHIANG LIU

FILED  
2007 OCT -1 AM 10:01  
CLERK OF COURT  
NORTHERN DISTRICT OF CALIFORNIA

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for  
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ISS

## E-filing

### UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA

HUEY-CHIANG LIU

Case No.

007-05042

EDL

Plaintiff,

vs.

PLAINTIFF'S ORIGINAL  
COMPLAINT FOR WRIT IN THE  
NATURE OF MANDAMUS UNDER 8  
U.S.C. Section 1447(b)

ADR

PETER D. KEISLER, United States Attorney  
for the District of California; EMILIO GONZALEZ, Director, U.S.  
Citizenship and Immigration Services; SCOTT  
SCHOOLS, United States Attorney California  
Northern District, ROSEMARY MELVILLE, San  
Francisco District Director, U.S. Citizenship and  
Immigration Services; ROBERT S. MUELLER,  
Director of Federal Bureau of Investigation,

Defendants

GO 44 SEC N  
NOTICE OF ASSIGNMENT  
TO MAGISTRATE JUDGE SENT

COME NOW HUEY-CHIANG LIU, Plaintiff in the above-styled and numbered cause,

and for cause of action would show unto the Court the following:

1. This action is brought for a hearing to decide Plaintiff's naturalization application due to Defendants' failure to adjudicate the application within 120 days after the examination (referred herein as the initial interview scheduled under 8 U.S.C. § 1446(a)) in violation of the Immigration and Naturalization Act ("INA") § 336(b) and 8 U.S.C. § 1447(b).

PLAINTIFF'S ORIGINAL COMPLAINT

1

**PARTIES**

2. Plaintiff HUEY-CHIANG LIOU (A#075258497) is a lawful permanent resident of the United States. Plaintiff resides in Alameda County, within the jurisdiction of this court. Plaintiff filed the N-400 application for naturalization to the United States and passed examination for naturalization on or about March 12, 2003. Defendants have failed to make a decision on the application within 120 days after the examination.

3. Defendant Peter D. Keisler is the acting United States Attorney General and this action is brought against him in his official capacities. Pursuant to 8 U.S.C. § 1103(a), he is charged with controlling determination of all issues of law pertaining to immigration and with representing the United States of America in various legal matters before this Court.

4. Defendant Scott Schools is the United States Attorney for the California Northern District.

5. Defendant Emilio Gonzalez is the Director of the United States Citizenship and Immigration Services (USCIS), an agency within DHS to whom the Secretary's authority has in part been delegated and is subject to the Secretary's supervision. In his capacity as the Director of USCIS, Dr. Gonzalez is responsible for the lawful administration of immigration benefits and services including adjudication of naturalization applications. 8 C.F.R. § 100.2(a). As such, he has decision-making authority over the matters alleged in this petition.

6. Defendant Rosemary Melville, San Francisco District Director, is an official of the USCIS generally charged with supervisory authority over all operations of the USCIS within her District with certain specific exceptions not relevant here. 8 C.F.R. § 100.2(d)(2)(ii). As will be shown, Defendant Director is the official with whom Plaintiff's naturalization application remains pending.

7. Defendant Robert S. Mueller, III, is the Director of the Federal Bureau of Investigations (FBI), the law enforcement agency that conducts security clearances for other U.S. government agencies, such as the Department of Homeland Security. As will be shown, Defendant has failed to complete the security clearances on Plaintiff's case.

**JURISDICTION**

8. Jurisdiction in this case is proper under 28 U.S.C. §§ 1331 and 1362, 5 USC § 701 *et seq.*, USC §2201 *et seq.*. Relief is requested pursuant to said statutes.

**VENUE**

9. Venue is proper in this Honorable Court, pursuant to 28 U.S.C. § 1331(e) and 8 U.S.C. § 1447(b), in that this is an action against officers and agencies of the United States in their official capacities, brought in the District where the Plaintiff now resides and where a substantial part of the events or omissions giving rise to Plaintiff's claim occurred.

**INTRADISTRICT ASSIGNMENT**

10. This lawsuit should be assigned to the Oakland Division of this Honorable Court because a substantial part of the events of omissions which give rise to this lawsuit occurred in Alameda County. Specifically, Plaintiff's application for naturalization remains pending with the USCIS San Francisco District Office.

**EXHAUSTION OF REMEDIES**

11. Plaintiff has exhausted his administrative remedies. Specifically, Plaintiff has submitted all the necessary documents that clearly establish his eligibility to be naturalized as U.S. Citizen. Plaintiff has on several occasions inquired about the status of his case in person at the USCIS San Francisco District Office. He was repeatedly told that the USCIS is still waiting for the background check result to come back from FBI.

**CAUSE OF ACTION**

12. Plaintiff has been a lawful permanent resident of the United States since December 23, 1997. During the passed five years, he has continued to reside in this country. Having fulfilled the residency prerequisites, Plaintiff filed a Form N-400 Application for Naturalization with the California Service Center of the USCIS on or about July 10, 2002. (Exhibit 1).

13. Plaintiff was fingerprinted on August 23, 2002 at Oakland, California, District Office of the USCIS, his local office. (Exhibit 2)

14. Plaintiff's examination with USCIS regarding his N-400 application was scheduled for about March 12, 2003 at Oakland, California, District Office.

1 15. Plaintiff thereafter received a notice stating the date and location for his examination  
2 appointment on or about March 12, 2003, at Oakland, California, District Office.

3 16. Plaintiff appeared for examination on or about March 12, 2003 and successfully passed  
4 all the required tests for citizenship. At the end on the examination he was informed that a  
5 decision on his case cannot be made awaiting completion of pending security checks by FBI. To  
6 date, more than 120 days have lapsed and Plaintiff's application remains adjudicated.

7 17. In 2006, Plaintiff moved to a new address in Fremont, CA. He subsequently filed AR-11  
8 Change of Address form with the USCIS indicating his new address.

9 18. Between February 2004 and September 2007, Plaintiff made several inquiries with the  
10 USCIS San Francisco District Office about the status of his case. In each visit the answer was  
11 that application cannot be acted upon due to the pending security checks. (Exhibit 3) On one  
12 occasion, Plaintiff was told that his fingerprint might be expiring soon and, therefore, on July 14,  
13 2004, Plaintiff went for a second fingerprint in the San Francisco, California District Office.

14 (Exhibit 4)

15 19. Plaintiff contacted the USCIS National Customer Service Center which initiated an  
16 inquiry to the USCIS San Francisco District Office on his behalf. The mailed responses  
17 indicated that Plaintiff's case "is still pending for the completion of all necessary background  
18 checks. Unfortunately a decision on your application cannot be made until all required security  
19 checks have been completed" and "Cases like this one are check weekly for clearance and then  
20 worked. Since a third party issues the clearance it is difficult to give you an accurate time  
21 frame".

22 25. Plaintiff's application for naturalization has now remained adjudicated for more than  
23 four years since his interview, thereby depriving Plaintiff of the right to a decision on his  
24 application and the peace of mind to which Plaintiff is entitled.

25 26. Defendants have sufficient information to determine Plaintiff's eligibility pursuant to  
26 applicable requirements.

27 27. Defendants, in violation of the Administrative Procedures Act, 5 U.S.C. § 701 *et seq.*,  
28 have failed to make a determination on Plaintiff's naturalization application within the 120-day



1 period after the date of examination.

2 28. Plaintiff has been damaged by the failure of Defendants to act in accord with their duties  
3 under the law.

4 (a) Plaintiff has been deprived of the substantial and unique benefits of citizenship,  
5 including protection of the laws of the United States equal to that of citizens,  
6 political rights including the right to vote, the right to obtain a United States  
7 passport, the protection of the United States government when outside of the  
8 United States.

9 (b) Plaintiff has experienced tension in his life due to the uncertainty and anxiety  
10 stemming from the pendency of Plaintiff's application, including the inability to  
11 file visa petitions for immediate relatives as a United States citizen.

12 **PRAYER**

13 29. WHEREFORE, in view of the argument and the authority noted herein, Plaintiff  
14 respectfully prays that the Defendants be cited to appear herein and that, upon due consideration,  
15 the Court enter an order:

- 16 (a) adjudicating the naturalization application and, if the Court finds Plaintiff eligible  
17 for naturalization, to administer the Oath of Allegiance.  
18 (b) in the alternative, the Court may remand requiring Defendants to immediately  
19 adjudicate Plaintiff's naturalization application.  
20 (c) awarding Plaintiff reasonable attorney's fees under the Equal Access to Justice  
21 Act, 28 U.S.C. § 2412.  
22 (d) granting such other relief at law and in equity as justice may require.

23  
24 Dated: 9-18-07

25  
26   
27 CINDY S. YAU

28 Attorney for Plaintiff

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3 **VERIFICATION**

4 I, HUEY-CHIANG LIOU, plaintiff in the above-captioned case, have read the foregoing  
5 complaint and verify that all facts stated therein are true and correct to my knowledge.

6 Dated: 9/18/2007

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8 HUEY-CHIANG LIOU  
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**EXHIBIT**  /

Notice of Action



Receipt			NOTICE DATE July 16, 2002
CASE TYPE N400 Application For Naturalization			INS A# A 075 258 497
APPLICATION NUMBER WSC*000848262	RECEIVED DATE July 10, 2002	PRIORITY DATE July 10, 2002	PAGE 1 of 1
APPLICANT NAME AND MAILING ADDRESS HUEY CHIANG LIOU 763 ALSION COURT FREMONT CA 94539		PAYMENT INFORMATION:  Single Application Fee: \$310.00 Total Amount Received: \$310.00 Total Balance Due: \$0.00	
<p>-----</p> <p>The above application has been received by our office and is in process. Our records indicate your personal information is as follows:</p> <p>Date of Birth: July 29, 1965 Address Where You Live: 763 ALSION COURT FREMONT CA 94539</p> <p>Please verify your personal information listed above and immediately notify our office at the address or phone number listed below if there are any changes.</p> <p>You will be notified of the date and place of your interview when you have been scheduled by the local INS office. You should expect to be notified within 460 days of this notice.</p>			
<p>If you have any questions or comments regarding this notice or the status of your case, please contact our office at the below address or customer service number. You will be notified separately about any other cases you may have filed.</p> <p>If you have other questions about possible immigration benefits and services, filing information, or INS forms, please call the INS National Customer Service Center (NCSC) at 1-800-375-5283. If you are hearing impaired, please call the NCSC TDD at 1-800-767-1833.</p> <p>If you have access to the Internet, you can also visit INS at <a href="http://www.ins.usdoj.gov">www.ins.usdoj.gov</a>. Here you can find valuable information about forms and filing instructions, and about general immigration services and benefits. At present, this site does not provide case status information.</p>			
INS Office Address: US IMMIGRATION AND NATURALIZATION SERVICE CALIFORNIA SERVICE CENTER P.O BOX 10400 LAGUNA NIGUEL CA 92607-		INS Customer Service Number: (949) 831-8427 375-5283 APPLICANT COPY	
WSC000943582 WSCG000037202			



**EXHIBIT** 2

# ASC/COLO Standard Operating Procedures

## DBI TENPRINTER Applicant Information Worksheet (AIW)

When you have completed this worksheet, turn it into the receptionist. Have this worksheet, your appointment notification letter and picture identification available.

NAME: Li Wang    
Last First Middle Suffix

DATE OF BIRTH: 1975 07 27 PHONE #: 815 575 5809  
Year Month Day

PLACE OF BIRTH: Taipei, Taiwan SEX: (Male or Female) Male

**RACE:** Check the most appropriate code below:

☐ American Indian or Alaskan Native      ☐ Black      ☐ White (Hispanic also check)  
☒ Asian or Pacific Island      ☐ Unknown

HEIGHT: 5 Feet 11 Inches WEIGHT: 181 Pounds

**EYE COLOR:** Check the most appropriate code below:

Black ☒ Brown ☐ Green ☐ Gray ☐ Pink ☐ Hazel ☐ Blue ☐ Maroon ☐

**HAIR COLOR:** Check the most appropriate code below:

Black Bald White Sandy Red Gray Blonde Brown

COUNTRY OF CITIZENSHIP: Thailand

SOCIAL SECURITY NUMBER: 644 - 27 - 3057

ALIEN REGISTRATION NUMBER: A 075 - 258 - 507

**LIST ANY OTHER NAMES YOU HAVE USED:**

Last	First	Middle	Suffix

  

RESIDENCE ADDRESS:	Street number and name	City	State	Zip Code
	763	Alhambra	CA	

REASON FOR FINGERPRINT APPLICATION: (I-485, I-589, I-600, I-821, N-400): 2100

**LOCAL AIW STAMP**

**FD-258 COMPLETED AT INS/ASC** \_\_\_\_\_ **XFB**

**ON:** AUG 23 2002 **BY:** [Signature]

**EXHIBIT** 3



U.S. Department of Justice  
Immigration and Naturalization Service

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*SAN FRANCISCO DISTRICT OFFICE  
444 WASHINGTON ST  
SAN FRANCISCO, CA 94111*

**STATUS INQUIRY**

HUEY-CHIANG LIOU  
763 ALSION CT  
FREMONT, CA 94539

Dear HUEY-CHIANG LIOU,

On 02/07/2004 you, or your designated representative, contacted the Citizenship and Immigration Services National Customer Service Center to request the status of your application.

The information provided to the Customer Service Representative is as follows:

Acknowledgment Letter Date:	Application Type: N-400
Filing Date: 07/10/2002	Date of Birth: 07/29/1965
File Number: 075258497	Receipt Number: WSC*000848262
Alien Registration Number: 075258497	Social Security:
Country of Origin: TAIWAN	
Phone: (510)657-6803	

Thank you for contacting CIS National Customer Service Center.

The status of your claim is:

Unfortunately your case is still pending a background clearance. Cases like this one are check weekly for clearance and then worked. Since a third party issues the clearance it is difficult to give you an accurate time frame.

U.S. Department of Homeland Security  
San Francisco, CA 94111



**U.S. Citizenship  
and Immigration  
Services**

LIU, HUEY-CHIANG  
763 ALSION COURT  
FREMONT, CA 94539

File No. A75258497  
App Id:  
Date: 07-15-2004  
Officer:

Re: Pending N-400 for Background Check

This is in response to your recent inquiry. A review of your application shows that your Form N -400, Application for Naturalization, is still pending for the completion of all necessary background checks. Unfortunately a decision on your application cannot be made until all required security checks have been completed. All cases pending for security checks are regularly reviewed for any new cases that have cleared. We apologize for the delay and request your cooperation and patience in waiting for these important checks to be completed.

Thank you for your cooperation and patience.

U.S. Citizenship and Immigration Services  
1301 Clay Street Rm#380N  
Oakland, CA 94612

U.S. Department of Homeland Security  
San Francisco, CA 94111



**U.S. Citizenship  
and Immigration  
Services**

HUEY-CHIANG LIOU  
763 ALISON COURT  
FREMONT CA 94539

File No. A75 258 497  
App Id: WSC\*848262  
Date: July 30, 2004  
Officer: OKL/CB/KJ

Re: Pending N-400 for Background Check

This is in response to your recent inquiry. A review of your application shows that your Form N-400, Application for Naturalization, is still pending for the completion of all necessary background checks. Unfortunately a decision on your application cannot be made until all required security checks have been completed. All cases pending for security checks are regularly reviewed for any new cases that have cleared. We apologize for the delay and request your cooperation and patience in waiting for these important checks to be completed.

Thank you for your cooperation and patience.

U.S. Citizenship and Immigration Services  
1301 Clay Street, Room 380N  
Oakland, California 94612-5217



U.S. Department of Homeland Security  
San Francisco, CA 94111



**U.S. Citizenship  
and Immigration  
Services**

HUEY-CHIANG LIOU  
763 ALSION COURT  
FREMONT CA 94539

File No. A75 258 497  
App Id: WSC\*848262  
Date: August 3, 2004  
Officer: OKL/CB/KJ

Re: Pending N-400 for Background Check

This is in response to your recent inquiry. A review of your application shows that your Form N-400, Application for Naturalization, is still pending for the completion of all necessary background checks. Unfortunately a decision on your application cannot be made until all required security checks have been completed. All cases pending for security checks are regularly reviewed for any new cases that have cleared. We apologize for the delay and request your cooperation and patience in waiting for these important checks to be completed.

Thank you for your cooperation and patience.

U.S. Citizenship and Immigration Services  
1301 Clay Street, Room 380N  
Oakland, California 94612-5217

**U.S. Department of Homeland Security**  
USCIS  
630 Sansome Street  
San Francisco, CA 94111



**U.S. Citizenship  
and Immigration  
Services**

Wednesday, September 12, 2007

HUEY CHANG LIOU  
304 ANZA STREET  
FREMONT CA 94539

Dear Huey Chang Liou:

On 09/04/2007 you, or the designated representative shown below, contacted us about your case. Some of the key information given to us at that time was the following:

<b>Caller indicated they are:</b>	Applicant or Petitioner
<b>Attorney Name:</b>	Information not available
<b>Case type:</b>	N400
<b>Filing date:</b>	07/10/2002
<b>Receipt #:</b>	WSC*000848262
<b>Beneficiary (if you filed for someone else):</b>	Information not available
<b>Your USCIS Account Number (A-number):</b>	A075258497
<b>Type of service requested:</b>	Outside Normal Processing Times

The status of this service request is:

The processing of your case has been delayed. A check of our records establishes that your case is not yet ready for decision, as the required investigation into your background remains open.

Until the background investigation is completed, we cannot move forward on your case. These background checks are required to be completed on all applicants who apply for the immigration benefit you are seeking. We will make every effort to make a decision on this case as soon as the background checks are complete. If you do not receive a decision or other notice of action from us within 6 months of this letter, please contact us by calling our customer service number provided below.

If you have any further questions, please call the National Customer Service Center at 1-800-375-5283.

Please remember: By law, every person who is not a U.S. citizen and who is over the age of 14 must also notify the Department of Homeland Security within 10 days from when they move (persons in "A" or "G" nonimmigrant status are exempt from this requirement). If you have moved, please complete a Form AR-11 and mail it to the address shown on that form. If you do not have this form, you can download it from our website or you can call the National Customer Service Center at 1-800-375-5283 and we can order one for you. If you move, please call us with your new address information as soon as your move is complete. If you have already called us and given us this information, you do not need to call again.

U.S. Citizenship and Immigration Services

**EXHIBIT** 4

145

**DBI TENPRINTER Applicant Information Worksheet (AIW)**

When you have completed this worksheet, turn it into the receptionist. Have this worksheet, your appointment notification letter and picture identification available.

NAME: Lam Henry    
Last First Middle Suffix

DATE OF BIRTH: 10 27 1977 PHONE #: 800-450-823  
Year Month Day

PLACE OF BIRTH: London, P.R.C. SEX: (Male or Female) Male

RACE: Check the most appropriate code below:

☐ American Indian or Alaskan Native ☐ Black ☐ White (Hispanic also check)  
☒ Asian or Pacific Island ☐ Unknown

HEIGHT: 5 Feet 11 Inches WEIGHT: 150 Pounds

EYE COLOR: Check the most appropriate code below:

☐ Black ☒ Brown ☐ Green ☐ Gray ☐ Pink ☐ Hazel ☐ Blue ☐ Maroon

HAIR COLOR: Check the most appropriate code below:

☒ Black ☐ Bald ☐ White ☐ Sandy ☐ Red ☐ Gray ☐ Blonde ☐ Brown

COUNTRY OF CITIZENSHIP: London, P.R.C. (RC)

SOCIAL SECURITY NUMBER: 1-11-111111

ALIEN REGISTRATION NUMBER: A 178-280-617

LIST ANY OTHER NAMES YOU HAVE USED:

Last First Middle Suffix

RESIDENCE ADDRESS:

162 11111 London CH 11111  
Street number and name Apartment # City State Zip Code

REASON FOR FINGERPRINT APPLICATION: (I-485, I-589, I-600, I-821, N-400): N-400

LOCAL AIW STAMP	
FD-258 Completed at INS/ASC:	<u>SFR / XTD</u>
On: <u>7/14/14</u>	By: <u>Flor</u>
QC Check Completed By:	<u>773</u>

U.S. Department of Homeland Security  
San Francisco, CA 94111**U.S. Citizenship  
and Immigration  
Services**LIOU, HUEY-CHIANG  
763 ALSION COURT  
FREMONT, CA 94539

File No.A75258497

App Id:

Date: 07-15-2004

Officer:

CC:

The fingerprints that you submitted have expired. To continue processing your application, you must go to a CIS Application Support Center to have your fingerprints taken. **Please ignore this letter if you have appeared for fingerprints within the last 90 days, or if you receive a duplicate notice and your fingerprints were not unclassifiable.**

**If you do not have them taken within an 87-day period, your naturalization application may be considered abandoned and denied pursuant to 8 CFR § 103.2(b)(13). Please present yourself with this letter to one of the sites below for Re- fingerprinting: If you miss or cannot appear on the appointment date(s), you must notify the appropriate Application Support Center by mail with a written request to be rescheduled. You must include a copy of this Notice.**

<input type="checkbox"/> <b>SAN FRANCISCO</b> 250 Broadway (At Sansome St) HOURS: <b>Tuesday through Saturday, 8am to 3:30 pm</b>	<input type="checkbox"/> <b>OAKLAND</b> 2040 Telegraph Avenue HOURS: <b>Tuesday through Saturday, 8am to 3:30 pm</b>
<input type="checkbox"/> <b>SANTA ROSA</b> 1401 Guerneville Rd, Suite 100 HOURS: <b>Tuesday through Saturday, 8am to 3:30 pm</b>	<input type="checkbox"/> <b>SAN JOSE</b> 122 Charcot Avenue HOURS: <b>Tuesday through Saturday, 8am to 3:30 pm</b>
<input type="checkbox"/> <b>MODESTO</b> 901 N Carpenter Ave #14 Crossroads Shopping Center HOURS: <b>Tuesday through Saturday, 9am to 3:30 pm</b>	<input type="checkbox"/> <b>SALINAS</b> 1954 N Main Street HOURS: <b>Tuesday through Saturday, 9am to 3:30 pm</b>
<input type="checkbox"/> <b>SACRAMENTO</b> 731 K Street, Room 100 HOURS: <b>Tuesday through Saturday, 8am to 3:30 pm</b>	<input type="checkbox"/> <b>FRESNO</b> 4893 E. Kings Canyon HOURS: <b>Tuesday through Saturday, 8am to 3:30 pm</b>
<input type="checkbox"/> <b>RED BLUFF</b> (Tehama County Sheriff's Office) 502 Oak Street HOURS: <b>Tuesday through Thursday, 9am to 1:00 pm 2pm to 4:00 pm</b>	<input type="checkbox"/> <b>ARCATA</b> (Arcata Police Department) 736 "F" Street HOURS: <b>Please call (707) 822-2428 to schedule appointment</b>

Photo Identification. **Naturalization applicants should bring their Alien Registration Card.** All applicants must bring a passport, driver's license, national ID, military ID, or State-issued photo ID. If you appear without proper identification, you will not be fingerprinted.

**Please take note that the Application Support Center staff will not be able to answer any questions about the status of your application.**